

ROYAL CIVIL SERVICE COMMISSION
BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2016
EXAMINATION CATEGORY: TECHNICAL

PAPER II: GENERAL SUBJECT KNOWLEDGE FOR LAW

Date	: 1 October 2016
Total Marks	: 100
Examination Time	: 90 minutes (1.5 hours)
Reading Time	: 15 minutes (prior to examination time)

GENERAL INSTRUCTIONS

1. Write your Registration Number clearly and correctly in the Answer Booklet.
2. The first 15 minutes are to check the number of pages, printing errors, clarify doubts and to read the instructions in Question Paper. You are NOT permitted to write during this time.
3. This paper consists of **TWO Parts, namely Part I and Part II.**
Part I consists of **70 Multiple Choice Questions** of 1 (one) mark each; and
Part II consists of **10 Short Answer Questions** of 3 (three) marks each.
4. **All questions are compulsory.**
5. All answers must be written in the Answer Booklet provided to you. You will not be given any marks for answers written other than in the Answer Booklet. Ask for additional Answer Booklet if required.
6. All answers should be written with correct numbering of Part, Section and Question Number in the Answer Booklet provided to you. Note that any answer written without indicating any or correct Part, Section and Question Number will NOT be evaluated and no marks would be awarded.
7. Begin each Part in a fresh page of the Answer Booklet.
8. You are not permitted to tear off any sheet(s) of the Answer Booklet as well as the Question Paper.
9. You are required to hand over the Answer Booklet to the Invigilator before leaving the examination hall.
10. This paper has 12 printed pages including this Instruction Page.

GOOD LUCK!

PART I: MULTIPLE CHOICE QUESTIONS

Choose the correct answer and write down the letter of the correct answer chosen in the Answer Booklet against the question number. E.g. 71(c). Any doubt writing, smudgy answer or writing more than one choice shall not be evaluated. Each question carries ONE mark.

1. Which of the following does not define the term “Legal Doctrine”?
 - a. Analytical study of law
 - b. Constructive legal science
 - c. Knowledge of law
 - d. Legal dogmatic

2. Which of the following is a secondary source of law?
 - a. Charter
 - b. Legislation
 - c. Precedent
 - d. Law reviews

3. _____ is a concept that addresses the ownership of goods in a society.
 - a. Distributive justice
 - b. Utilitarianism
 - c. Capitalism
 - d. Socialism

4. The process of compiling, arranging and systematizing the laws of a given jurisdiction, or of a discreet branch of the law is
 - a. Codification
 - b. Consolidation
 - c. Compilation
 - d. Enactment

5. Constitution is generally defined as
 - a. Law of the land.
 - b. Supreme law of the land.
 - c. Constitutional law of the land.
 - d. Administrative law of the land.

6. According to _____, law is a command of the sovereign.
 - a. John Stuart Mill
 - b. Thomas Hobbes
 - c. John Austin
 - d. John Locke

7. What is common to the criteria of the existence of a legal system propounded by Austin and Kelsen?
 - a. Existence of a sovereign.
 - b. Personal obedience to the sovereign.

- c. Efficacy of a legal system.
 - d. Obedience to the laws.
8. According to Dias, power coupled with a duty to exercise it is a
- a. Ministerial power
 - b. Discretionary power
 - c. Administrative power
 - d. Rightful power
9. According to Roscoe Pound, the task of law is
- a. to maintain social cohesiveness.
 - b. to punish the wrong doer.
 - c. social engineering.
 - d. to safeguard the weak.
10. Jurisprudence or *juris prudentia* in Latin term means
- a. a theory of law.
 - b. a science of law.
 - c. a philosophy of law.
 - d. All of the above
11. Which tradition argues that individuals have certain inherent rights and obligations?
- a. Naturalist
 - b. Positivist
 - c. Theological
 - d. Universalist
12. A theory that utilitarianism is an ethical foundation which determines that legislation should be organised so as to provide the greatest happiness to the greatest number was propounded by
- a. Roscoe Pound
 - b. H.L.A. Hart
 - c. Ronald Dworkin
 - d. Jeremy Bentham
13. According to John William Salmond, Supreme Legislation is
- a. Law made by parliament.
 - b. Law made by courts.
 - c. Law related to fundamental rights.
 - d. Law that can only be changed through national referendum.
14. Which of the following jurists said that people in the state of nature entered into two contracts?
- a. J. Locke
 - b. Hobbes

- c. J. Rousseau
 - d. Henry Maine
15. Rawls propounded the theory of “position of ignorance”. He was inspired by
- a. the idea of liberty.
 - b. social contract theories.
 - c. natural law theories.
 - d. the logic of free market.
16. Which of the following is not an attribute of Austin’s sovereignty? Sovereignty is
- a. exercised by different authorities.
 - b. indivisible.
 - c. unlimited.
 - d. universal.
17. Statutes are also known as
- a. Ordinances
 - b. Acts of Parliament
 - c. Directives
 - d. Rules and Regulations
18. Which one of the following is regarded as modern source of international law?
- a. Decisions of organs of international bodies.
 - b. International customs, treaties and decisions.
 - c. General principles of law recognized by civilized States.
 - d. Judicial decisions and juristic work of quality.
19. In international law, the doctrine of incorporation provides that
- a. International law form part of municipal law only if accepted by judicial decisions.
 - b. International law form part of municipal law only if accepted by the parliament.
 - c. International law automatically forms part of municipal law.
 - d. All of the above
20. Which principle did the United States Supreme Court in Marbury v. Madison establish?
- a. Judicial restraint
 - b. Judicial review
 - c. Judicial activism
 - d. Formalism
21. The branch of law that deals with restrictive trade practices is
- a. Anti-corruption law
 - b. Anti-money laundering law
 - c. Competition law
 - d. Trade law

22. If a court considered a precedent and decided that its facts were different and so it was not applicable, then the precedent has been
- Overruled
 - Distinguished
 - Rejected
 - Overturned
23. The doctrine of eminent domain is the right of the government
- to take private property for public use.
 - to distribute wealth equitably.
 - to trespass into private property.
 - to deprive the owner of his/her property without compensation.
24. The equitable doctrine by which a court denies relief to a claimant who has unreasonably delayed in asserting the claim:
- Doctrine of estoppel
 - Doctrine of tenures
 - Doctrine of laches
 - Doctrine of finality
25. Group of scholars who disapprove the orthodox conception of law according to which, law emanates from a single authority in the state is
- Sociological Jurists
 - Analytical Jurists
 - Historical jurists
 - Natural Jurists
26. Which of the following is the least accepted source of law?
- Enacted law
 - Case law
 - Juristic law
 - Customary law
27. Declaratory theory of precedent states that
- Judges do not make or change the law, they merely declare it.
 - Judges can declare the law as unconstitutional.
 - Judges can change the law.
 - Judges cannot declare the law.
28. A court can disregard a precedent when
- the decision is erroneous.
 - the decision is abrogated by a statutory law.
 - the decision is inconsistent with earlier decisions of high court.
 - All of the above

29. According to Roscoe Pound, Customary law comprises of
- Law formulated through custom of popular action.
 - Law formulated through judicial decision.
 - Law formulated by doctrinal writings and scientific discussions of legal principles.
 - All of the above
30. A wrongful act to constitute an offence must be accompanied with
- mala fide motive.
 - guilty mind.
 - actual pecuniary loss.
 - intention to injure the reputation of the victim's family.
31. The purpose of death penalty as a punishment is to:
- reform the society.
 - take revenge and deter others from committing heinous crimes.
 - create fear in the minds of criminals.
 - reduce burden on the state.
32. Crime is a wrong treated essentially against
- the society.
 - the victim.
 - the family.
 - the private persons.
33. In-camera trial refers to
- trial before open court.
 - trial broadcast via television networks.
 - trial to which public and press are not admitted.
 - summary trial.
34. A treaty amending or supplementing another treaty is called
- Covenant
 - Agreement
 - Protocol
 - Codicil
35. Government which is responsible to the people; specifically a political system in which the governments and individual ministers are drawn from and accountable to parliament, specially the lower house is called
- Responsible government
 - Parliamentary government
 - Representative government
 - Collective government

36. A legal doctrine that allows a person to acquire legal ownership of property that he treats as his own, if he does so for a long enough period of time, even though the property is not his own:
- Adverse assumption
 - Adverse possession
 - Adverse inference
 - Estoppel
37. Which of the following is least accurate about Public Interest Litigation (PIL)?
- Class Action
 - Judicial activism
 - Epistolary jurisdiction
 - Public concern
38. A correct statement about the inquisitorial legal system is
- court is actively involved in investigation of facts.
 - court acts as an impartial referee.
 - only legal counsel are involved in fact findings.
 - case is decided by a jury.
39. Let us assume that a Cybercrimes Act is passed by Parliament, which provides that all cyber cafes, hotels, restaurants, shops and other public places must install some surveillance software on their Internet-enabled computers. A, the principal of a school, is arrested for not installing the software on the school's Internet-enabled computers. Which of the following statement is the most accurate application of the principle set out below?
- Principle:** *The rule of Ejusdem generis suggests that when a general word or phrase follows specific words or phrase, the general word or phrase will be interpreted to include only the items of the same type as those listed.*
- A is guilty as school is a public place.
 - A is not guilty as school is not a public place.
 - A is guilty, as the purpose of the Cybercrimes Act is evidently to curb cybercrimes, which would be defeated by not monitoring school computers.
 - A is not guilty, as the public places mentioned in the Cybercrimes Act are commercial establishments.
40. Which of the following is not a rule of statutory interpretation?
- Noscitur a sociis rule*
 - Mischief rule
 - General rule
 - Literal rule
41. The rule of construction, if in a legislation, the general object of which is to benefit a particular class of persons, any provision is ambiguous so that it is capable of two meanings, one of which would preserve the benefit should be adopted is
- Beneficent construction

- b. Strict Construction
 - c. Harmonious construction
 - d. Purposive construction
42. The term “proof beyond reasonable doubt” is a
- a. Burden of proof
 - b. Doctrine of proof
 - c. Standard of proof
 - d. Criminal defence
43. A legal doctrine which allows for double prosecution of a person by more than one state for the same crime, where both the states have jurisdiction for the prosecution, and notwithstanding the double jeopardy rule is
- a. Dual-criminality doctrine
 - b. Dual-sovereignty doctrine
 - c. Dual-persona doctrine
 - d. Dual-capacity doctrine
44. Under the writ of *habeas corpus*, the court can
- a. order to transfer the case from one court to another.
 - b. direct the government to do or not to do a thing.
 - c. ask to produce a person before it.
 - d. ask to free a person temporarily.
45. A preliminary statement in a contract or a deed explaining the background of the transaction or showing the existence of particular facts:
- a. Recital
 - b. Preamble
 - c. Preface
 - d. Prelude
46. In order to bring a successful claim in negligence, the claimant must prove
- a. Duty of care
 - b. Breach of duty
 - c. Suffered damage
 - d. All of the above
47. Which of the following may be tendered as affirmative defence to criminal liability before the court?
- a. Ignorance
 - b. Provocation
 - c. Entrapment
 - d. Necessity

48. Which of the following is incorrectly matched?
- Civil law jurisdiction = Inquisitorial
 - Slander = Defamation
 - Obiter dictum = Binding decision
 - Tort = Civil wrong
49. Which of the following statement is least accurate about the concept of plea bargaining under the criminal justice system?
- Negotiated agreement between the prosecutor and the defendant.
 - Judge agrees to lower the sentence of the defendant.
 - Defendant pleads guilty to some or all of the charges.
 - Defendant testify for the State in cases against other defendants.
50. Which of the following is not a reason for imposing criminal punishment?
- Imprisonment
 - Incapacitation
 - Rehabilitation
 - Deterrence
51. Which of the following is not an aid to statutory construction?
- Schedules
 - Punctuations
 - Law lecture
 - Marginal notes
52. Which of the following is not an external aid to statutory construction?
- Illustrations
 - Parliamentary history
 - Text books
 - Dictionaries
53. Which of the following is true about a *non-obstante* clause in a statute?
- It is a remedial clause.
 - It is a prevailing clause.
 - It is a retrospective clause.
 - It is an operative clause.
54. Usually, the rule of strict construction of statutes is applied to
- Procedural laws
 - Penal laws
 - Taxing laws
 - Constitutional laws
55. The legal maxim "*delegates non-potest delegare*" is a general principle of law which
- is against delegation.
 - is against sub-delegation.

- c. is in favour of delegation.
 - d. is in favour of sub-delegation.
56. A decision is said to be *per incuriam*
- a. when it is given in ignorance of a statutory provision or a binding authority.
 - b. when it is given without hearing one of the parties.
 - c. when it is given in absence of both the parties.
 - d. when it is given without jurisdiction.
57. According to our Constitution, the form of Government shall be that of a
- a. Democratic Constitutional Monarchy
 - b. Constitutional Democratic Monarchy
 - c. Constitutional Monarchy
 - d. Democratic Monarchy
58. As per Article 3.1 of the Constitution, Buddhism is
- a. The State religion
 - b. The National religion
 - c. The spiritual heritage
 - d. The National heritage
59. Which of the following statement is true?
- a. The Constitution requires to maintain a minimum of sixty percent of the total land under forest cover for all time.
 - b. The Constitution requires to maintain a minimum of sixty five percent of the total land under forest cover for all time.
 - c. The Constitution requires to maintain a minimum of seventy percent of the total land under forest cover for all time.
 - d. The Constitution requires to maintain a maximum of sixty five percent of the total land under forest cover for all time.
60. As per the Constitution, the Parliament which shall consist of the Druk Gyalpo, the National Council and the National Assembly is vested with all legislative powers, except in matters relating to
- a. the citizenship and the fundamental rights.
 - b. the fundamental rights and the fundamental duties.
 - c. the Institution of Monarchy and international territorial boundary.
 - d. the institution of Monarchy and the form of government.
61. Whenever the National Assembly is dissolved, the Druk Gyalpo shall appoint an Interim Government headed by a Chief Advisor to enable the Election Commission to hold free and fair election. Who shall be the Chief Advisor as per the Constitution?
- a. Chairperson of the National Council
 - b. Chief Justice of Bhutan
 - c. Chairperson of the Royal Privy Council
 - d. The Attorney General

62. Which of the following is not the holder of constitutional offices under the Constitution?
- The Auditor General
 - The Attorney General
 - The Chief Justice of Bhutan
 - The Drangpons of the High Court
63. In any instance of a difference in meaning between the Dzongkha and the English texts of the Constitution:
- Both Dzongkha and English shall be regarded as equally authoritative.
 - Dzongkha shall be regarded as authoritative.
 - English shall be regarded as authoritative.
 - It is the prerogative of the Supreme Court.
64. Under the Penal Code of Bhutan, a defendant convicted of third degree felony shall receive a maximum sentence of
- nine years.
 - less than nine years.
 - five years.
 - less than five years.
65. The doctrine of *privity* of contract dictates that
- only the parties to a contract are entitled to take action to enforce it.
 - a third party beneficiary is entitled to take action to enforce the contract if he/she is denied the promised benefit.
 - both the parties to the contract and the third party beneficiary are equally entitled to take action to enforce the contract.
 - None of the above
66. A branch of public international law that consists of rules, in times of armed conflict, seek for humanitarian reasons to protect persons who are not or are no longer directly participating in the hostilities, and to restrict means and methods of warfare is called
- Universal law
 - Human rights law
 - Genocide international law
 - International humanitarian law
67. *Res Ipsa Loquitor* is a rule of evidence generally applicable under
- International law
 - Criminal law
 - Contract law
 - Tort law
68. Generally the State provides legal aid to
- Minor accused
 - Woman accused
 - Indigent accused
 - Civil litigants

69. The most important duty of a lawyer to equip himself is the duty towards
- his client.
 - the court.
 - his fellow lawyers.
 - the public.
70. Which of the following is not a duty of a lawyer to other lawyers?
- Duty to be candid, fair and courteous.
 - Duty to avoid self-advertisement and solicitation of professional employment.
 - Duty not to deal directly with the clients of other lawyers.
 - Duty not to adopt dilatory tactics.

PART II: SHORT ANSWER QUESTIONS

This part consists of 10 Short Answer Questions. Answer all questions. Each question carries THREE marks.

1. However paradoxical it may sound in this contemporary world, “law is a noble profession and not a trade or business.” Discuss. (3)
2. Article 21.4 of the Constitution states that “the Chief Justice of Bhutan shall be appointed from among the Drangpons of the Supreme Court or from among eminent jurists by the Druk Gyalpo...”. Explain the term “eminent jurists”. (3)
3. Article 21.3 of the Constitution states that “the Supreme Court shall be a court of record”. Explain what you understand by it. (3)
4. What is meant by “general legal doctrine”? (3)
5. Jeremy Bentham, an English moral philosopher and legal reformer, founded the doctrine of Utilitarianism. Briefly explain his idea of Utilitarianism. (3)
6. List down four major sources of law? (3)
7. Distinguish between mandatory and persuasive authority. (3)
8. The Supreme Court of Bhutan recently issued a writ to the Election Commission of Bhutan on the issue related to the Dzongkhag and Yenlag Thromde election. What do you understand by the term “Writ”? Briefly explain the content of that particular writ. (1.5 x 2)
9. Distinguish between assault and battery. (1.5x2)
10. In your own words, explain how law and economics are inter-related. (3)